

AMENDED IN SENATE APRIL 8, 2003
AMENDED IN SENATE MARCH 18, 2003

SENATE BILL

No. 211

Introduced by Senator Dunn

February 13, 2003

An act to add Article 9 (commencing with Section 1569.880) to Chapter 3.2 of Division 2 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 211, as amended, Dunn. Residential care facilities for the elderly: admission agreements.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services, including, among other things, regulation of admissions procedures and agreements. A violation of the provisions relating to residential care facilities for the elderly is a misdemeanor.

This bill would specify requirements for the form and content of admission agreements, as defined, for residential care facilities for the elderly, and would require a facility to conspicuously post a copy of its agreement within the facility. The bill would require the admission agreement to include, among other things, a comprehensive fee ~~schedule~~ *description of any items and services provided*, an explanation of 3rd-party services, information relating to residents' rights, and information relating to billing and payment, term of contract, refunds, and termination of the agreement.

This bill would prohibit an admission agreement from including grounds for involuntary transfer or eviction that are inconsistent with

state law. The bill would require the admission agreement to be signed and dated by the resident or the resident's representative, and would require the original agreement and all subsequent modifications to be placed in the resident's file and file. *The bill would also require a copy of the signed and dated admission agreement to be given to the resident or the resident's representative. The bill would provide that an admission agreement shall be immediately terminated upon the resident's death.*

This bill would provide that its requirements are intended to be in addition to, and not exclusive of, any other requirements established by law or regulation with respect to admission agreements for residential care facilities for the elderly.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that it is
2 in the best interest of the residents of residential care facilities for
3 the elderly to ensure that admission agreements used by these
4 facilities do not violate residents' rights.

5 (b) Therefore, it is the intent of the Legislature in enacting this
6 act to establish laws to protect the rights of the residents in
7 residential care facilities for the elderly and to provide the
8 residents with the information necessary to make informed
9 choices regarding admission agreements in these facilities.

10 SEC. 2. Article 9 (commencing with Section 1569.880) is
11 added to Chapter 3.2 of Division 2 of the Health and Safety Code,
12 to read:

13



Article 9. Admission Agreements

1569.880. (a) For purposes of this section, an “admission agreement” includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly licensed under this chapter.

(b) The admission agreement shall not include any written attachment containing any provision that is prohibited from being included in the admission agreement.

1569.881. (a) Every residential care facility for the elderly shall make blank complete copies of its admission agreement immediately available to the public at cost, upon request.

(b) Every residential care facility for the elderly shall conspicuously post in a location accessible to the public view within the facility either a complete copy of the admission agreement, or a notice of its availability from the facility.

1569.882. (a) The admission agreement shall be printed in black type of not less than 12-point type size, on plain white paper. The print shall appear on one side of the paper only.

(b) The admission agreement shall be written in clear, coherent, and unambiguous language, using words with common and everyday meanings. It shall be appropriately divided, and each section shall be appropriately captioned.

1569.883. (a) The admission agreement shall not include unlawful waivers of facility liability for the health and safety or personal property of residents.

(b) The admission agreement shall not include any provision that the facility knows or should know is deceptive, or unlawful under state or federal law.

(c) The admission agreement shall not include any requirement for binding arbitration. No agreement for binding arbitration of claims signed in conjunction with or as part of an admission agreement or as a separate document shall be enforceable. *This provision shall not limit in any way the ability of any party to voluntarily agree to arbitrate the dispute after the admission agreement is signed and after a dispute arises.*

1569.884. The admission agreement shall include all of the following:

1 (a) A comprehensive description of any items and services
2 ~~provided, such as a monthly fee for room, board, provided under~~
3 ~~a single fee, such as a monthly fee for room, board, and other items~~
4 and services.

5 (b) A comprehensive description of, and the fee schedule for,
6 all items and services not included in a single fee. In addition, the
7 agreement shall indicate that the resident shall receive a monthly
8 statement itemizing all separate charges incurred by the resident.

9 (c) *A facility may assess a separate charge for an item or*
10 *service only if that separate charge is authorized by the admission*
11 *agreement. If additional services are available through the facility*
12 *to be purchased by the resident that were not available at the time*
13 *the admission agreement was signed, a list of these services and*
14 *charges shall be provided to the resident or the resident's*
15 *representative. A statement acknowledging the acceptance or*
16 *refusal to purchase the additional services shall be signed and*
17 *dated by the resident or the resident's representative and attached*
18 *to the admission agreement.*

19 (d) An explanation of the use of third-party services *within the*
20 *facility*, including, but not limited to, ancillary, health, and medical
21 services, how they may be arranged, accessed, and monitored,
22 whether transportation is available if the services are not provided
23 onsite, any restrictions on third-party services, and who is
24 financially responsible for the third-party services and
25 transportation costs.

26 ~~(d)~~

27 (e) A comprehensive description of billing and payment
28 policies and procedures.

29 ~~(e)~~

30 (f) The conditions under which rates may be increased pursuant
31 to Section 1569.655.

32 ~~(f)~~

33 (g) The facility's policy concerning family visits and other
34 communication with residents, pursuant to Section 1569.313.

35 ~~(g)~~

36 (h) The facility's policy concerning refunds.

37 ~~(h)~~

38 (i) Conditions under which the agreement may be terminated.

39 1569.885. (a) When referring to a resident's obligation to
40 observe facility rules, the admission agreement shall indicate that

1 the rules must be reasonable, and that there is a facility procedure
2 for suggesting changes in the rules. A facility rule shall not violate
3 any right set forth in this article or in other applicable laws and
4 regulations.

5 (b) The admission agreement shall specify that a copy of the
6 facility grievance procedure for resolution of resident complaints
7 about facility practices shall be made available to the resident or
8 his or her representative.

9 (c) The admission agreement shall inform a resident of the right
10 to contact the State Department of Social Services, the long-term
11 care ombudsman, or both, regarding grievances against the
12 facility.

13 (d) A copy of any applicable resident's rights specified by law
14 or regulation shall be an attachment to all admission agreements.

15 1569.886. (a) The admission agreement shall not include any
16 ground for involuntary transfer or eviction of the resident unless
17 those grounds are specifically enumerated under state law or
18 ~~regulations~~ *regulation*.

19 (b) The admission agreement shall list the justifications for
20 eviction permissible under state law or ~~regulations~~ *regulation*,
21 exactly as they are worded in the applicable law or ~~regulations~~
22 *regulation*.

23 (c) The admission agreement shall include an explanation of
24 the resident's right to notice prior to an involuntary transfer,
25 discharge, or eviction, the process by which the resident may
26 appeal the decision and a description of the relocation assistance
27 offered by the facility.

28 1569.887. (a) The admission agreement shall be signed and
29 dated, acknowledging the contents of the document, by the
30 resident or the resident's representative.

31 (b) The licensee shall retain in the resident's file the original
32 signed and dated initial agreement and all subsequent
33 modifications.

34 (c) The licensee shall provide a copy of the signed and dated
35 admission agreement to the resident or the resident's
36 representative, if any.

37 ~~(d) The admission agreement shall be automatically terminated~~
38 ~~upon the death of the resident.~~

39 1569.888. (a) The requirements of this article relating to
40 admission agreements for residential care facilities for the elderly

1 are intended to be in addition to, and not exclusive of, any other
2 requirements established by state law or regulation.

3 (b) ~~These provisions~~ *This article* shall not apply to licensees of
4 residential care facilities for the elderly that have obtained a
5 certificate of authority to offer continuing care contracts, as
6 defined in paragraph (5) of subdivision (c) of Section 1771.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

